

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Western District of TexasAUSA - A. HOFF
FILED

OCT 03 2012

United States of America)

v.)

Michael Aaron Jayne)

Case No.)

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXASBY _____
DEPUTY CLERK

Defendant(s)

A-12-M-622


CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 28, 2012 in the county of TRAVIS in the
Western District of Texas, the defendant(s) violated:

| <i>Code Section</i> | <i>Offense Description</i> |
|---------------------------------|------------------------------------|
| Title 18 USC, Section 922(g)(1) | Possession of a Firearm by a Felon |

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

Detective Armando Balderama #1199

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/03/2012

Judge's signature

City and state: Austin, TEXAS

Andrew Austin, United States Magistrate Judge

Printed name and title

Attachment

The following information is a result of my investigation and information provided to me by other law enforcement sources:

On 06/27/2012, members of the U.S. Marshals' Lone Star Fugitive Task force received information for a fugitive, Michael Aaron Jayne (w/m, 03-19-1982), wanted out of the state of Oregon for the following parole violation:

OFF/PAROLE VIOLATION
OOC/ ASSAULT
DOW/ 20120409 OCA/17889087
WNO/17889087
MIS/**CAUTION ON PPS FOR ASSA II **EXTRADITE FROM OR,TX,
ORI IS BOARD OF PAROLE 503 945-9035

On 06/28/2012, through follow up investigation, it was determined that Michael Aaron Jayne was possibly staying at 10301 FM 2222 #624 in Austin, Texas with a female identified as Misty Michelle Clardy (w/f, 11/09/1981). Deputy U.S. Marshals A. Greenwood and C. Camacho conducted surveillance at 10301 FM 2222 and they saw Michael Aaron Jayne and Clardy exit apartment #624. Jayne and Clardy got into Clardy's pickup truck and were followed as Clardy drove Jayne to 11350 Four Points Dr. in Austin, Texas. Jayne got out of the pickup truck and got into the driver seat of a black colored Honda with unknown California license plates. Jayne drove off in the Honda and the Marshals attempted to continue to covertly follow him. However, Jayne suddenly sped off, driving erratically at high speeds, and managed to elude surveillance.

After Jayne had fled, Deputy U.S. Marshal B. Sheely was able to relocate Misty Clardy's pickup and when Clardy was about to get into her vehicle, she was approached by Deputy Marshal Sheely and Austin Police Officer T. Boddy, who is a member of the Lone Star Fugitive Task Force. Officer Boddy explained to Clardy that they needed to speak with her and during their conversation she admitted that she had a boyfriend named "Aaron". Clardy was shown a photo of Michael Aaron Jayne and she identified Michael Aaron Jayne as her boyfriend "Aaron", who had been staying with her at her apartment.

Clardy was informed that Michael Aaron Jayne was wanted and she informed Officer Boddy that she had learned Jayne was wanted. Clardy was asked if Jayne had any weapons and she stated that she knew him to be in possession of an AR-15 rifle and a 9mm handgun. Clardy said she last knew the rifle, which was loaded, to be in her bedroom closet and that the 9mm handgun was usually kept in a drawer in the bathroom of her apartment but that at times he also carried it in his waist band or kept it in the drawer of an end table that was in the front room of the apartment.

Clardy went on to tell Officer Boddy that Jayne had been in possession of the 9mm handgun when they first started dating (sometime around Memorial Day) and that she had recently purchased the AR-15 for him from a male who had posted the rifle for sale on line. Clardy stated she met the man at Barton Creek Mall in Austin, Texas and obtained the rifle for Jayne, who then purchased a box of ammunition for the rifle.

Officer Boddy asked Clardy, who has no criminal history and who is not prohibited from possessing firearms, for voluntary written consent to search her apartment for the rifle and handgun. Clardy provided voluntary written consent admitting that Jayne had already called her and told her not to do anything stupid.

Members of the Lone Star Fugitive Task Force obtained the keys to apartment #624 from Clardy and cleared the apartment. No one was found inside but a Surplus Ammo and Arms AR-15 type Rifle with serial # SA25125

was seized from the bedroom and a Smith & Wesson 9mm semi-automatic handgun Model SW9VE was found atop a table that was in the front room of the apartment. Both the rifle and handgun were loaded with live rounds. The Ar-15 rifle magazine was loaded with Winchester .223 ammunition. The 9mm magazine was loaded with 15 rounds of Winchester 9mm ammunition and one Hornady Hollowpoint round. In addition to the rounds found in the magazines of the firearms, officers also found a box of Winchester 9mm FMJ ammunition.

After the firearms and related items were seized, surveillance was continued at 10301 FM 2222 but Michael Aaron Jayne did not return. Investigative follow up strongly suggested that Jayne left the Austin area and was intent on avoiding arrest.

On 07-02-2012, while assigned to the Austin Police Department Firearms Unit, I reviewed the report on Michael Aaron Jayne and requested a criminal history report on Jayne. The criminal history report showed Jayne to have been assigned FBI# 647396NB4. Jayne's criminal history showed several felony convictions including a conviction out of Oregon on 10-20-2009 for Assault 2nd Degree Felony for which he was sentenced to 40 months.

As a convicted felon, Jayne is prohibited from possessing or owning any firearms and/or ammunition. Forensic analysis requests were submitted on the firearms and ammunition for DNA collection, latent print processing, and ballistics

On 07-25-2012, I had Misty Clardy come in to provide a more in depth statement, which was audio recorded. Clardy reiterated what she had previously told Officer Boddy. She said that she had met Michael Aaron Jayne through an on line dating site and Jayne had eventually traveled to Austin see her. After they met, Jayne stayed a couple of days and then left. He returned to stay for a day and then left saying he was going to California with his nephew to get his car. Clardy said it was sometime around the Memorial Day weekend that he returned to Austin in his car, which was a black colored Honda Civic, and she allowed him to stay in her apartment.

Clardy said Jayne moved out at one point when he began a romantic relationship with another girl but then he moved back in with her and stayed with her for several weeks prior to 06-28-2012 when officers approached her. I asked Clardy about the firearms and she told me that he showed up with the 9mm handgun either the second or third time he came to her apartment. She said he carried it most anytime he moved from place to place. She said that he usually carried it in his backpack and kept it in the apartment when they went out to eat or do other things nearby.

I asked Clardy about the rifle and she said that he told her that he had been in the Army and had been looking for one. She said he looked on line and eventually came up with one that he was interested in buying and texted the seller using her phone. She said he wanted her to purchase it because he thought she might be able to get a better price and she agreed to make the purchase. Clardy said that it was on or about 06-24-2012 that she met with the seller, who was a w/m in his early to mid-forties, and she purchased the rifle from him at Barton Creek Mall in Austin, Travis County, Texas for \$780.00.

Clardy said that the rifle came with one magazine and Jayne bought a scope and ammunition for it the next day. Clardy said he bought the rifle and scope himself from a Walmart near her apartment. She said the morning of the day that she was approached by Police they had an argument and he packed some items but did not remove them. He called her later to tell her that he was followed and she believes that is why he left the firearms behind.

Clardy knows that the 9mm handgun Jayne had is a working firearm as they had previously gone to a gun range together where they had fired the 9mm handgun and some assault type rifles that were owned by the gun range. She also believes that the AR-15 rifle is a functioning firearm as the seller told her that it was in good working condition and Jayne had opportunity to inspect it and bought ammunition for it. Clardy additionally confirmed in her audio recorded statement that Michael Aaron Jayne possessed the firearms at 10301 Fm 2222 #624 in Austin, Travis County, Texas, which is in the Western District of the United States.

To verify the purchase of the ammunition and scope, Austin Police Officer Officer K. Rybarski, who is assigned to the Lone Star Fugitive Task Force, went to the Walmart located at FM 620 and FM 2222. Rybarski was able to obtain a receipt for the cash purchase of a scope and Winchester .223 ammunition on 06/25/2012 as was described by Misty Clardy.

On 08-21-2012, Michael Aaron Jayne was arrested in Kendall County, Texas. Jayne was held on his parole violation warrant from the state of Oregon.

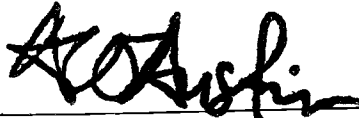
On 08-21-2012, DNA swabs were obtained from the AR-15 rifle and the Smith & Wesson 9mm handgun and respective magazines. The firearms and the box of 9mm ammunition were also processed for latent prints and latent prints were obtained from the box of ammunition.

On 09-18-2012, a latent print comparison to Michael Jayne was attempted but faxed copies from the FBI that were used for comparison lacked ridge clarity that was needed.

Michael Aaron Jayne has since been transferred back to Oregon but is scheduled to be released within the next week. This complaint is being sought to hold Jayne, who has a history of evading and resisting arrest. I believe sufficient probable cause exists to warrant Jayne's arrest and his custodial transfer to the Western District of Texas will facilitate the collection of his DNA for comparison and also allow a full latent print comparison.

ATF Special Agent (SA) Daniel Mueller, an Interstate Nexus Expert, was briefed on the firearms, the AR-15 rifle and 9mm handgun, that were seized in this case to determine their effect on interstate and foreign commerce. SA Daniel Mueller stated that the firearms were not manufactured in the State of Texas and that if the firearms were possessed in Texas the firearms would have had to travel in and affect interstate and foreign commerce.

10/3/12
DATE



U.S. MAGISTRATE JUDGE
ANDREW W. AUSTIN